

CITY OF TAKOMA PARK, MARYLAND
(Adopted 4/11/05)

**CLOSED SESSION, PRESENTATION, PUBLIC HEARINGS,
REGULAR MEETING & WORKSESSION
OF THE CITY COUNCIL**

Monday, June 21, 2004

Closed Session 6/14/04 - Motion by Austin-Lane; seconded by Barry. The Council voted to convene in Closed Session at 9:56 p.m. in the Municipal Building Conference Room to discuss a personnel matter (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; ABSENT: Seamens). OFFICIALS PRESENT: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; STAFF/OTHERS PRESENT: Silber, Waters. Council discussed the terms of the contract for the new City Manager and provided direction to the City Attorney. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i))

OFFICIALS PRESENT:

Mayor Porter	City Clerk Waters
Councilmember Austin-Lane	
Councilmember Barry	
Councilmember Seamens	
Councilmember Williams	

OFFICIAL ABSENT:

Councilmember Elrich
Councilmember Mizeur

The Council convened at 6:37 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, to vote on a Closed Session. Following conclusion of the Closed Session, the Council reconvened in open session at 7:33 p.m.

Closed Session 6/21/04 - Motion by Barry; seconded by Seamens. The Council voted to convene in Closed Session at 6:40 p.m. in the Municipal Building Conference Room 1) to obtain legal advice, and 2) to discuss a personnel matter, pursuant to Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) and 10-508(a)(1)(i). (VOTING FOR: Porter, Austin-Lane, Barry, Seamens, Williams; ABSENT: Elrich, Mizeur). OFFICIALS PRESENT: Porter, Austin-Lane, Barry, Seamens, Williams; STAFF/OTHERS PRESENT: Silber, Waters, Finn (not present for the personnel discussion). 1) The City Attorney advised Council on a) legal issues related to the Arredondo lawsuit and b) a Public Information Act request. 2) The Council agreed on a final version of a contract for the new City Manager.

OFFICIALS PRESENT:

Mayor Porter
Councilmember Austin-Lane
Councilmember Barry
Councilmember Elrich
Councilmember Mizeur
Councilmember Williams
Councilmember Seamens

City Manager Finn
City Clerk Waters
Communications Director Moffet
Public Works Director Lott
Public Works Deputy Director Braithwaite
ECD Coordinator Daines
Police Chief Creamer
Senior Planner Inerfeld
Code Enforcement Officer Ciccone

COUNCIL COMMENTS

Mr. Seamens corrected a mistake, in that there were three items discussed in the Closed Session tonight.

Ms. Porter clarified that one was not originally planned.

Mr. Seamens announced that the County needs foster parents. He encouraged people to contact the County Department of Health and Human Services. The shortage of foster parents is critical in this area.

Ms. Austin-Lane noted she attended a meeting last Thursday night at the Washington Theological Seminary. The architect proposing a building on Carroll/Maple gave a presentation. It was well received. It was a very productive meeting. She will continue to update on the developments with the project. She announced a meeting in her Ward this week regarding the Maple Avenue street calming (7:30 p.m. at the Presbyterian Church).

Ms. Porter said there were no additional agenda items or minutes for consideration.

PUBLIC COMMENTS

None.

PRESENTATION

1. Update on Community Center Construction.

Mr. Williams reported on:

(1) Progress Update on Construction. The new stormwater box now has its roof poured. It will become part of the surface for the parking area. The Verizon phone line will be temporarily buried between the building and the Library, providing for less danger. The secondary masonry walls continue to be built.

(2) Component Selection. We need to clarify and finalize by June 29 the question of the Dulles Gray roof color – whether to make the gutters and down spouts match that color. The agreement was that all be the same color as the roof. The other thing that does not have a deadline today, was with respect to a brick sample (contractor's best match to existing brick of the building). When the project is completed, it will be an interior wall. It needs to go up about another 5 feet. The question was whether this is a close enough mix. The existing brick has variation of shades/tones. The sample is in the middle of those tones/shades. It will be difficult if not impossible to exactly match the brick. The suggestion is that we might take the brick and soldier them to create a dividing line. This transition will be on the top of the wall in the atrium section on the Admin level. Does anyone have any ideas? It needs to be decided fairly soon.

(3) Building Design. The designs for this level of the building will be available for staff discussion in the first week in July. He thinks that the design will come back after the August break.

(4) Money. Prices are due back from the contractor on the items discussed last week. We are still waiting. This may need to go on the agenda in fairly short notice. He had wanted to have an option available to have the skylights on top of the atrium added back in. He thinks it would make the space much nicer. His understanding is that the skylight portion was never bid. It was part of value engineering to prepare for the skylights but not to put them in the plan. As he has further discussed the project with the architect, we have come to a realization that it would be one big skylight. There is structural steel that is in that area right now. The sense is that it would be a whole lot more expensive than a small item. He thinks it would be a good idea to get a sense of the cost to add this back into the plan. Do we want the architect and contractor to pursue an answer to the question? We should ask for a ballpark figure.

Ms. Porter asked would the architect have to charge us anything for the design work.

Mr. Williams said he did not know.

Mr. Seamens said he supports getting an idea about how much different elements cost. We need ballpark figures for everything.

Mr. Seamens stated that this is the number one project in the City. We should learn what all the pieces will cost and develop a plan to accomplish the project.

Ms. Porter remarked that she thinks we have ballpark figures for most elements.

Mr. Williams agreed.

Ms. Austin-Lane asked about the corner accents and the horizontal details.

Mr. Williams commented that we are getting the price to put the corner accents back in. The metal horizontal pieces are on a list with the atrium skylights. The skylight part has been

designed in. The question is about the extra cost, doing it now versus doing it later.

Ms. Porter asked for clarification about Mr. Williams' suggestion.

Mr. Williams replied that the potential savings is that the structural steel has probably been ordered, so we would have to pay for that, but would not lose the cost associated with putting in the roof and later removing it.

Mr. Seamens noted Ms. Porter's point about not paying too much for additional design work. He commented on Mr. Williams' presentation last week and the remarks about new plans. Who gives the authorization for new sets of plans?

Mr. Williams said the additional work to do that was fairly minimal. He thinks that Ms. Porter's concern about the skylight question is different. The drawings that came back last week were very minimal.

Mr. Seamens asked who is giving direction to the architect.

Mr. Finn responded that decisions are made out of his office.

PUBLIC HEARINGS

2. General Obligation Bond - Financing for Street Rehabilitation.

Ms. Porter introduced the topic of the public hearing. This is based on the discussion by the Council last week.

Mr. Finn said we have gone back to the bank and had them re-issue the numbers given that the interest rate continues to rise. We are locked into a 30-day hold on a 3.34% rate on a 7-year loan. He noted the presentation materials provided to the Council. Ms. Braithwaite has gone through and used the same scenarios previously presented, using the 3.34% rate. The analysis still shows that it makes sense to proceed with the loans. The original point that the staff was asked to pursue, in addition to savings, was to facilitate a faster repair of the roads early on versus later on. The savings are not as great as at 2.6% rate, but it still makes sense to proceed. We have a qualified statement from the bank that commits the bank to hold the terms long enough for the Council to take action. He explained the structure of repayments. They would be semi-annual payments. The first payment (1/05), would be interest only. The following payments would be principle and interest, starting in FY06. There are no changes from the previous presentations other than a slightly higher interest rate. Ms. Braithwaite's presentation indicates approximately when the streets will be repaired. I have been advised by SunTrust that after the 30 day period, they anticipate that the interest rate will be significantly greater.

Ms. Porter noted the materials associated with this item.

Mr. Finn said these numbers are not that much different than discussed in the past couple of weeks. There is a slight change. The documents are labeled as a bond, but the financing is a 7 year loan. Generally, it is referred to as a bond when it is a 10-year term. There is no proposal to increase the tax rate to repay the loan. The proposal is that we take the annual \$500,000 (CIP - Street Rehab Funds) and use to pay the debt service on the loan.

Ms. Porter clarified that actually, it is not the entire \$500,000 that will go toward debt service. The total amount to be spent each year would remain at \$500,000 even with the loan.

Mr. Elrich said that in looking over the note, there is no prepayment penalty. If we were to have some success with the county on the public works rebate discussion or if we were to turn over public works to the County, we might have other options in the future.

The public hearing was opened at 8:01 p.m.

Nellie Moxley, PineCrest Association President said she is opposed to the bond. We are keeping the City in debt. This is the worst that she has seen. There are all kinds of questions on this. She noted the increase in the interest rate. Common sense would indicate that the figures are illustrating a bad situation. Staff needs to go back and re-examine this proposal. She said to Mr. Finn that he needs to find another proposal. Interest rates are not this high, yet. Have you checked with other institutions?

Mr. Finn replied that we have contacted other banks. Interest rates were higher.

Ms. Porter said she thinks that this is a reasonable rate. She knows that rates are increasing.

Mr. Finn said there is no “bankruptcy” going on here.

Ms. Moxley asked why we do not wait for the new City Manager in making this decision. You can discuss it with her.

Ms. Porter responded that Ms. Matthews supports it.

Ms. Moxley said she does not oppose everything that the City does. She thinks there are other alternatives.

Mr. Finn said that the City takes out \$500,000 each year, right now, for street work. This loan does not require any tax increase. The \$500,000 will be committed for this program.

Ms. Moxley said she has a real concern about this matter. The City has so many debts outstanding. She does not agree that the interest rate will jump as high as stated.

Seth Grimes, 7300 Willow Avenue questioned the urgency of the City borrowing \$2M or any funds for street repairs. Please postpone or vote in opposition this evening. He noted the recent

new City Manager search process. Among the selection criteria, were budgeting and financial planning background. The committee and public reacted to the deterioration of the City infrastructure. We are at the point of mismanagement of the City. He remarked about the failures of the community center project. He pointed to remarks about arbitrage and speculative interest rate planning. Mr. Finn has history of presenting numbers that are suspect and changing. Mr. Finn has a history of forcing “do or die” decisions on the Council. The current decision is one. Mr. Grimes asked that the Council defer the decision until Barbara Matthews is on staff. He questioned whether the City should borrow for infrastructure repairs. He remarked about the list serve discussion of the amounts spent for routine infrastructure over the past five years. Council should make haste slowly. Borrowing should wait.

Eileen Sobek, 7637 Carroll Avenue said she supports the measure. She wants to commend the Council for taking action to do more repairs sooner without raising taxes or assessments. There is a limited window of time when it is cheaper to borrow. This seems like a reasonable measure and a prudent use of City funds that she supports. She said that she does not favor getting overly in debt, but on the other hand, we should take the opportunity to get a handle on the repairs of roads. She supports the measure. She has talked to a lot of folks in her neighborhood and have not heard opposition. They are not here tonight; but she speaks on their behalf.

The hearing closed at 8:12 p.m.

Mr. Elrich said he wants to respond to comment about arbitrage. The City is not doing arbitrage even in the remotest sense. When the bond is issued, you get one check for the whole amount of money. The contractor then bills as the work is done. Since we are not doing all the work at once, the money will sit in an interest bearing account until bills are drawn down. There will be a gap when money is issued and when bills are paid.

3. Speed Hump Request - Elm Avenue.

Ms. Porter introduced the topic.

The hearing was called to order at 8:14 p.m.

Nicole Berner-Kedesh described the block requesting the speed hump. We have lived in the house for four years and have three small children. There are a lot of children in the area. Many families in the area are concerned about this issue. Traffic goes past very fast. It is a dangerous area – the street narrows drastically. Another issue raised at the SOSCA meeting is that there is no passable sidewalk in that area of Elm. A lot of pedestrians use the route to get to the parkway. She did not encounter any major objections during the canvassing for support of the proposal.

Nate (son) described an instance where he had to move out of the street to avoid an oncoming car.

Wanita Juarez said we have a lot of traffic on the street. We hope to get some type of traffic control device on the block. There are many children and pets in the area. There is an absence of sidewalk in the area. She remarked about the narrowing of the street and how cars squeeze through in opposing directions. She urged Council support for the speed hump.

The hearing closed at 8:18 p.m.

REGULAR MEETING

4. 1st Reading Ordinance re: Speed Hump Request (Elm Avenue).

Ms. Mizeur strongly supports the speed hump. Traffic does move through the area very quickly. She appreciates the work of the neighbors to circulate the petition and to get the matter on the agenda. She reiterated the points Ms. Braithwaite and Mr. Lott made about the condition of the street. She restated the desire to fill the potholes, water collection and drainage issues in the area. She is very interested in having the concerns of the entire neighborhood addressed. She knows that neighbors in SOSCA supported the speed hump.

Moved by Ms. Mizeur; seconded by Mr. Williams.

Ms. Waters gave a brief statement about the petition and how it meets the requirements of the ordinance. She noted the letter from SOSCA.

Ms. Porter noted that she lives on this block. She repeated the comments about the concerns regarding traffic in the area.

Mr. Seamens commented on the different structure of speed humps throughout the City. Does the City have a standard for speed hump construction?

Ms. Porter replied in the affirmative. Some of the older ones were put in place prior to the new standard. She believes that they are replaced under the new standard as streets are repaired.

Ms. Braithwaite confirmed the statement.

Ms. Mizeur said that with work going on throughout the streets, she is hearing from residents with an interest to put in speed humps as the streets are improved. It seems that people are not aware of the process. She suggested that there be an article in the next Newsletter.

Ordinance #2004-22 was accepted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

ORDINANCE #2004-22
(Attached)

5. 1st Reading Ordinance re: Street Rehab Financing (General Obligation Bond 1-2004).

Moved by Mr. Elrich; seconded by Mr. Barry.

Ms. Austin-Lane said the previous discussion of the Council on this topic was lengthy and she thought that we arrived at a conclusion of what people had asked us to do – explore options other than borrowing. She was disappointed that the Council did not look at savings/reductions in City services to find the monies. She thinks that this process is contrary to the Council’s practice of holding a hearing tonight, coupled with a vote on the ordinance. She thinks that the difficult discussion of where to find money for the street repairs will be one that has to take place. She thinks either street repairs or the community center will not be funded. Hopefully, the Council will proceed with an exploration of City services and County services. She hopes to see this on the upcoming Council agenda. She noted her history with this discussion. She said that the original proposal to borrow for this work came up early in her time on the Council. In contrast to the discussion of the \$2M bond for the community center, the prior discussion of borrowing for street work did not receive widespread support. She thought that the previous discussion ended with the Council deciding not to borrow a lot of money. Utility cuts can undermine attempts to maintain roads.

Mr. Seamens thanked Mr. Finn for getting this information to Council in quick turn-around. He continues to be concerned about the Council getting information and having very little time to review it before making a decision. We do not have to make a decision tonight. The idea to borrow for street repairs first came to the Council in 2002. Out of the discussion, staff was directed to enter into a contract for a street study. A couple of weeks ago, Public Works suggested that we decrease the Stormwater Management budget. He has since learned that stormwater has an impact on streets. He recognized it better to focus on quality street work. He said that it is less clear that the current interest rate (higher than original analysis) results in a benefit. He is concerned about further borrowing. He will vote “no.”

Ms. Porter recognized this is an issue that the City has been discussing for at least two years. Comments are correct that we have learned a lot as we have gone through this discussion. We have refined our assessment and are in a better position to assess where we are with road conditions and how to estimate costs for repairs. There have been numerous public discussions. She thinks that we are now at a place to make a decision based on more information. We know the results of the street study. We have watched interest rates. We have contacted the incoming City Manager and she has stated her support. She has said that this is not uncommon to do. This does not increase our expenditures. Council has made a policy decision that in going forward, we will commit \$500,000 for annual street rehabilitation. She disagrees with Mr. Seamens’

comment about the quality of work being poor. There have been some problems. When we have run into problems like water under the surface, we have changed the approach to the renovation of those roads. The department has put forward a good plan for street maintenance. She noted that when we were originally talking about a bond in the nature of \$6-8M, it was to finish all of the roads. She said that she was not in favor of that proposal. It was too much at one time. However, this makes sense. It sooner addresses the roads that are in most disrepair. This makes sense. It is prudent. We are in a good position to know what we are doing. She supports the proposed ordinance.

Mr. Williams said he is in a little different position than many of his colleagues. For years, he was paying more attention to making sure that we took care of road repairs. With the help of some constituents and staff, he came up with various ways to do that. He noted the work of Pinecrest in helping to come up with some County money. We have worked closer with utility companies. There were a lot of problems with Washington Gas early on. Also, the City had problems with WSSC; we now have a better agreement and closer coordination of our individual projects. Most of the ward's constituents have had their roads repaired during his time on the Council. There are still a few that have not been repaired in Ward 3. He does not have a dog in this race in terms of addressing constituent concerns. It is easier to take the broader, city-wide view on this matter. He started out as a skeptic to borrow money for capital repairs. He recognizes the difficult position of this Council to establish a funded street maintenance program with a cycle. The goal was a 20-25 year cycle. Various Council's have tried to get a handle on the appropriate funding level. For a while, \$300,000 was the funding level. It was easier in some years than in others. Then there was a recognition that it wasn't enough. There became a recognition that we were not dealing with the sub-basin of streets. He was not in favor of borrowing money until we knew the condition of the base. Now we have a report from the engineer. He has much more confidence in the figures that we have. However we do this, we need to get on a 20 year schedule so that streets do not deteriorate. He thinks that the \$500,000 gets us where we need to be. The remaining question is whether to accelerate some of the repairs by doing the borrowing. He thinks that scenario 2A is the way to go. He supports the up-front borrowing. Sometimes you have to be temporarily inconvenienced, with the anticipation of a better long-term result. He has become convinced with the quality of staff work on this proposal and the work of Council to come to this recommendation.

Mr. Barry said he does have a dog in this fight. He remarked about the cracks being chasms and the alligatoring being ferocious. He does not know where the cracks begin and end. Residents of Ward 6 want their streets repaired. He remarked about the recent work on Kirkland – it was really well done. The residents of the Ward would welcome a discussion of City expenditures and where we are going in the future. They welcome a discussion with the new City Manager and the idea of a citizen survey to explore ways to generate more revenues. He supports this measure. We have talked to residents and feel that this is the way to go.

Mr. Williams remarked that he is reminded of the feeling of going and looking at the large area that was done with the \$2M from the County – the area surrounded by Eastern, Elm and New Hampshire. The work picked up the appearance of the entire area. It really gave people pride in

the ownership of their neighborhood. It made it easier for people to do a number of other projects. He would look forward to that spreading.

Mr. Elrich replied that Mr. Williams' point is a good one. On the walk-through of the area, since the street work, it was remarkably different than a walk-through of the same area prior to annexation. It makes a visible impression. He said that when he first got on the Council, there was no rhyme or reason about how the road monies were spent. Every ward got a portion of the monies. Some neighborhoods depended on Community Development Block Grant (CDBG) monies for street work. Council's have changed this over the years. This is the first time that the sub-base was evaluated. It has made it possible to estimate the funding necessary to correct the street problems and provide for continued maintenance. He noted discussions with Ms. Braithwaite about how to address streets that have sub-base issues. He is sensitive about concerns about information being brought to the Council late and decisions having to be made in a hurry. It has not always been the case. We have to look at each situation independently. He remarked about the rising interest rates. The information has changed, but if we continue to wait, the information will always be as current as the day before. He is comfortable with where the City is and the intention of getting on a 20 year program. The numbers make sense. In talking with the engineers, they explained how they were estimated for the out years. They have looked around at enough other jurisdictions to know that borrowing for infrastructure is not an abnormal thing. Roads that are allowed to deteriorate well beyond their life require some borrowing to do immediate repairs, followed by a regular maintenance plan. We are well within the guidelines that bond counsel and auditors have indicated in the past. He noted that Rockville has a much greater borrowing ratio with a larger commercial base for infrastructure. He commented on Gaithersburg's tax base and the ability to pay for infrastructure. He is comfortable with this. It is the right thing to do. If things change with our dealings with the County, we might have an opportunity to alter what we have done.

Mr. Williams said, with respect to maintenance, in addition to the \$500,000, we have added monies for on-going maintenance (e.g., crack repairs, etc.).

Mr. Elrich stated that people have compared this by looking solely at the interest rate and inflation. It would be a wash. We need to consider that some streets will become significantly more expensive to repair over time. That is something that you cannot capture just by looking at inflation and interest rates. Delays are going to be more expensive than if we try to tackle this work now.

Ms. Mizeur commented that during her election campaign, one of the most often mentioned issues was a plea for repair or attention to the sorry state of roads in the Ward. She noted a previous Council discussion of borrowing money for this work. She was hesitant to support borrowing, initially. However, she does not compare that discussion to this discussion. It is important for us to catch up on the road work. She noted the findings of the street study. Without attention, the streets will continue to deteriorate and will cost more to repair. She commented on the benefits of the loan and getting to the point where are on a 20 year maintenance cycle. She does not intend to support borrowing for this type of work in the future;

but given the street conditions and the low interest rate that we have, it seems to be most prudent at this time. She noted the savings over the long run. This is a whole separate discussion than the debt discussion originally put forth. We have talked with residents and exchanged e-mails on the topic. We went back to some of the former opponents and through discussion some are now in support of this proposal. She referred to the scenarios comparing pay-as-you-go and loan scenarios. We have a significant opportunity to do an important investment in the infrastructure in the first ten years of the program. We are still interested in exploring discussions with the County about their services and rebates to the City. We are anxious to have a discussion with the residents and the new City Manager about the appropriate City/County service mix. She noted some of the comments she heard at a Glazewood Court neighborhood party this weekend. There was appreciation expressed for the work on the roads. We have had several people respond in support of borrowing for road repairs and some who suggested borrowing for sidewalks. She will vote to support this ordinance.

Mr. Seamens reminded the Council that they still have to find a lot of money for the community center. He does not want us to paint ourselves into a corner by taking out this loan.

Ms. Mizeur said she does not see how this vote has an impact on spending for the community center. She does not see a relevant connection. She cannot compare the two. The Council is still planning to spend \$500,000 each year on streets, either way.

Mr. Elrich agreed. They have not made any plans to increase the money that we are spending on roads. We are committing the use of the \$500,000 on street work. He said that he is much like Mr. Williams in having a smaller horse in this race. A lot of work got done on his streets. It is not fair to paint this issue in the wrong way.

Ms. Austin-Lane remarked that we have a plan in front of us for a 20 year cycle. Do we have any guarantee from the contractor regarding their workmanship for any period of time?

Ms. Braithwaite responded that we do not have it as a current function of the contract (i.e., guarantee for work to last a certain amount of time); we could put that in the next contract.

Mr. Lott said we do have certified inspectors checking our contractor making sure the work is done correct and that we are using industry standards to indicate how long the roads will last.

Ms. Porter asked what has been done in case of occasional problems.

Mr. Lott explained that the contractor comes back and makes repairs at their cost.

Mr. Finn added that it is not uncommon to have a performance bond attached to a contract. It could add significant cost to a contract (up to 10% of contract cost). We could direct staff to do that in the future. When we have had problems, the contractor has made the corrections. Performance bonds are available, but they are expensive.

Mr. Williams noted that the cost for the inspector to oversee the work is included in all of the scenarios. It is one more thing to lend to the level of confidence.

Mr. Lott said the inspector keeps records of all work that takes place on the roads. It is very specific information that will be kept on record.

Ms. Moxley remarked that PineCrest got a grant from the County. Some money was used for work on the Circle. Did they not get work done?

Ms. Porter replied that the basis for the money from the County was annexation/unification.

Ms. Moxley responded that work in the neighborhood has never been finished. Some money was used for work on the upper end of the City. The contractors were not reliable or dependable. There are still roots hanging out. Sidewalks need mending. The streets look very well. She noted recent work on Kansas and other damage to a street in the area of the street bonding scope. There may be some unclarified paperwork that needs to be resolved.

Ms. Porter noted that the money was spent.

Ms. Moxley urged the Council to wait on this decision.

Mr. Williams said his recollection of the project is that PineCrest initiated the discussion with the County. The County wanted the work area defined. A determination was made about how much the County would grant and how much would be a low interest loan to the City.

Ms. Mizeur asked if the money that is borrowed does become an automatic extension of the loan with the current contract.

Mr. Lott explained that these are two separate issues.

Ms. Porter clarified that Ms. Mizeur is making a request that the work be rebid.

Mr. Finn said the numbers in front of the Council are based on current contract costs. The numbers would probably come in higher if rebid. We have had interest from two other jurisdictions to piggy-back our contract.

Ms. Porter asked if staff just have some discussions with other contractors without going through the entire process.

Mr. Finn noted the terms of the current contract and the City Manager's authority for extension of contracts. However, staff can come back to the Council to discuss this as a separate item.

Ms. Mizeur said she has noted a few concerns and has discussed some points with Ms. Braithwaite. Please include these in the list of things for a new contract.

Seth Grimes said we all recognize the need for road repairs. His comments in opposition to the financing are not to suggest opposition to repair of roads. He asked whether any of the Councilmembers are planning to lock in a personal loan at a low rate to invest with expectation of earnings. He noted Nellie's remarks and Mr. Seamens' concerns regarding funding for the community center. The question tonight is about borrowing to finance road repairs. It is not the proper time to engage in this borrowing for road repairs.

Ordinance #2004-23 was accepted at first reading (VOTING FOR: Porter, Barry, Elrich, Mizeur, Williams; AGAINST: Austin-Lane, Seamens).

ORDINANCE #2004-23
(Attached)

6. 2nd Reading Ordinance re: FY05 Stormwater Budget.

Moved by Mr. Williams; seconded by Mr. Elrich. MOTION: The Council should convene as the Stormwater Management Board.

Ms. Porter explained the item.

Moved by Mr. Elrich; seconded by Mr. Seamens.

Ms. Porter noted a correction was needed in the title of the Ordinance (i.e., change FY04 to FY05).

Ordinance #2004-13 was adopted unanimously (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur)

ORDINANCE #2004-13
(Attached)

The Stormwater Management Board adjourned and the City Council reconvened their meeting.

7. 2nd Reading Ordinance re: FY05 Tax Rate.

Ms. Porter explained the item.

Moved by Mr. Williams; seconded by Mr. Barry.

Ordinance #2004-14 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Seamens, Williams; ABSENT: Mizeur).

ORDINANCE #2004-14
(Attached)

8. 2nd Reading Ordinance re: FY05 City Budget.

Moved by Mr. Elrich; seconded by Mr. Williams.

Ms. Austin-Lane said she had been absent for two important weeks of this discussion and apologizes for the proposal distributed tonight. She had been talking to City planners about Maple Avenue traffic calming measures, and does not believe that they have budgeted enough for maintenance of parks that we have underway or established. She proposes that more money be added to this program. She is concerned about adequate funds for the maintenance of parks. She wants to allocate \$40,000 from the City Priorities budget to the Urban Forest program.

Mr. Finn said it was very inappropriate that this is being put forth without discussing the suggestion with him and the Department head.

Ms. Austin-Lane said it was inappropriate for him to respond in that manner. She said she had a conversation with Mr. Lott, Mr. Welsh and Mr. Inerfeld.

Mr. Finn reiterated that it was inappropriate to do it in this way or at this time.

Ms. Porter suggested that we not get into this issue right now. She shares Mr. Finn's concerns about things like this coming up at the last minute. Ms. Austin-Lane is raising a concern; but she does share Mr. Finn's concern about things like this being presented without the opportunity for public discussion.

Mr. Seamens said he agrees with a concern about maintenance of City parks. He has seen an increased need for work in the past few years without an increase in the budget. He is not sure that there is a need to have a discussion about the source of funds. He recognized that Ms. Austin-Lane has not been here for the past couple of discussions.

Ms. Porter expressed that certainly, people want to see our parks maintained. The City Gardner is doing a good job. We have not advertised this discussion. People have not had an opportunity for notice or discussion. There is flexibility within the budget once the year begins. She would prefer to deal with it at that point versus dealing with it like this.

Mr. Elrich said he is a little less concerned about the timing. He does not agree with the proposal or the source that is identified. Park maintenance is a service that the County provides. This is one of those subjects that needs to be part of the broader discussion along with the discussion about services.

Ms. Porter inquired if there was any support for this change right now.

Mr. Seamens said he would second a motion to allow the opportunity for Council to vote on the proposal. He saw the need for further discussion of the funding source.

Ms. Austin-Lane noted the letter that she presented to the Council. It goes over some of the other issues that have been discussed (e.g., community center and street rehabilitation funding). If her other positions are not supported by the rest of the Council, she thinks that this is one that she would also see supported.

Ms. Porter remarked that she thinks that Mr. Elrich makes an excellent point. If we are going to say that one of our priorities is to study the budget very closely and make sure that we know the areas where we are duplicating County functions (necessary or not), this is not consistent with that basic general direction.

Mr. Elrich responded that his understanding was that the Council wants to explore duplicated services and determine what things we want to do that are not done by the County. This falls within this category. We have said that we want to look at what the County would do differently if they were to take over certain services. He referred to Ms. Austin-Lane's letter and the reference to the Police Department dispatch and the County's service.

Ms. Austin-Lane restated her proposal. We must maintain the parks.

Mr. Elrich said he had no recommendation from Public Works to add money to their budget. This is Ms. Austin-Lane's opinion, substituting for that of the department.

Mr. Finn responded that it is based on a discussion with the department Director--if he had \$40,000, he would put it toward other things within his departmental budget.

Mr. Elrich challenged what City priority would be cut.

Ms. Austin-Lane replied that the priorities are not specifically identified.

Ms. Mizeur agreed that park maintenance is important. There were items cut from the list (e.g., auto theft program). What are you taking away from that discussion to pay for that \$40,000 transfer?

Ms. Austin-Lane responded that she does not have an answer.

Ms. Mizeur asked whether she is interchanging City Priorities money with unappropriated reserves.

Ms. Austin-Lane said she would be happy to talk about other sources.

Ms. Mizeur remarked that would be willing to have this on the list of priorities to be addressed at a future date. She does not think that we have enough information tonight to make decisions about reallocations.

Mr. Williams said he would be happy to go along with Ms. Mizeur's proposal. It kind of

dovetails with him putting on and taking off, items from the reconciliation list (i.e, capital improvements project to Spring Park). We can take up the issues mid-year that Public Works can address next Spring.

Ms. Porter said she would also support this approach and would like a presentation from staff about how this money would be used.

Ms. Mizeur said she would also like that presentation from the Gardner.

Ms. Austin-Lane added that she was under the same assumption that this budget would allow us to continue what we are doing. However, in attending Maple Avenue traffic calming meetings over the last couple of weeks, she heard comments that we may not have the money for maintenance of planned changes available to complete the streetscape work.

Ms. Porter asked if she is happy with taking this up at a different date.

Ms. Austin-Lane questioned when the discussion would take place.

Mr. Finn said, generally, not until after January.

Mr. Elrich said, we will not know what staff vacancies are generating in terms of unanticipated revenues.

Mr. Finn said we are talking about two different issues. We are talking about putting in new materials on Maple Avenue. Staff has been told to stay within available monies for the project. The understanding from the proposed budget is that maintenance of the parks will continue at the same level. What the Gardner was probably talking about was that they do not have money for new pocket parks. There was a process set-up some time ago to identify pocket parks and then determine the funding.

Ms. Mizeur noted the different discussion that is being raised. These monies would exceed the current level of service. It sounds like they would fund expanding to new pocket parks.

Mr. Seamens said we have seen increases in pocket parks over the past few years. The Gardner has done a good job in maintenance; but he has been confused about how we add more parks and continue to operate with the same budget. We can look at this from different perspectives. He would support putting it on the list of items for possible funding out of Undesignated funds.

Ms. Porter recommended that the Council postpone a decision on the proposal. We hear from staff the needs. The Council needs to make a decision about the direction. Funding will probably have to come from the Undesignated Reserve.

Mr. Elrich said he was totally not willing to make a decision tonight based on Ms. Austin-Lane's recommendation, one not coming from the staff. We should consider it in the context of further

funding of the specific project.

Mr. Williams said, in some ways, it is good that this concern came up. It is the flip-side of what we have had in the past where we have had an experienced project creep up.

Mr. Elrich made a motion to table the motion.

The proposal was postponed for future discussion.

Mr. Seamens said he remains concerned about the budget and the needs for the community center. The initial thought was that he should vote against the budget. Overall, he will vote for the budget. He remains concerned that they did not have a discussion about the community center finance budget.

Ordinance #2004-15 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

ORDINANCE #2004-15
(Attached)

9. 2nd Reading Ordinance re: FY05 Police Pay Plan.

Moved by Mr. Elrich; seconded by Mr. Williams.

Ordinance #2004-16 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

ORDINANCE #2004-16
(Attached)

10. 2nd Reading Ordinance re: FY05 AFSCME Employee Pay Plan.

Moved by Mr. Williams; seconded by Mr. Elrich.

Ordinance #2004-17 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

**ORDINANCE #2004-17
(Attached)**

11. 2nd Reading Ordinance re: FY05 Management and Non-Union Staff Pay Plan.

Moved by Mr. Elrich; seconded by Mr. Williams.

Ordinance #2004-18 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

**ORDINANCE #2004-18
(Attached)**

12. 2nd Reading Ordinance re: Part-Time and Seasonal Staff Pay Plan.

Moved by Mr. Williams; seconded by Mr. Barry.

Ordinance #2004-19 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

**ORDINANCE #2004-19
(Attached)**

13. Resolution re: MFS Agreement.

Ms. Moffet noted the statement at last week's worksession that there were some questions which have been addressed in a memo from Attorney Rick Elrod. There are a variety of linear foot charges out there for use of rights-of-way. The attorney was very comfortable with the fee that we are receiving.

Ms. Mizeur said she appreciates the additional work to check this out.

Moved by Mr. Williams; seconded by Mr. Elrich.

Ms. Moxley asked whether the entire City is covered by this service.

Ms. Porter responded that this is not cable television. This is a company that pays us to use our

right-of-way to bury fiber optic cable.

Ms. Moffet said there are no customers in the City. It is just a pipe running through the City.

Resolution #2004-25 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams).

RESOLUTION #2004-25
(Attached)

14. 2nd Reading Ordinance re: Facade Advisory Board.

Moved by Mr. Williams; seconded by Mr. Elrich.

Ms. Porter explained the ordinance.

Ordinance #2004-21 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

ORDINANCE #2004-21
(Attached)

15. 1st Reading Ordinance re: FY04 Budget Amendment.

Ms. Waters explained the ordinance.

Moved by Mr. Elrich; seconded by Mr. Williams.

Mr. Williams asked if the “hold-back” amount for the community center has been included.

Ms. Waters offered to provide further clarification.

Ordinance #2004-24 was accepted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

ORDINANCE #2004-24
(Attached)

16. Single Reading Ordinance re: Police Vehicles.

Moved by Mr. Williams; seconded by Mr. Elrich.

Ms. Porter noted that Police Chief Creamer has provided the additional, requested information on the hybrid vehicle options, and she maintains her original recommendation.

Mr. Seamens expressed thanks for the additional research.

Chief Creamer said it was an interesting analysis. There have been new developments in the industry. We will continue to monitor the situation. She noted the work of Procurement Specialist Cordell Meyers.

Mr. Williams recommended that they keep an eye on the hybrid SUV.

Ms. Austin-Lane expressed thanks for the work. She is satisfied with the recommendation for purchase of the Taurus.

Mr. Seamens apologized for having them come back out and wait until this late hour.

Ordinance #2004-25 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

ORDINANCE #2004-25
(Attached)

17. Resolution re: Condolence - Sergeant Jacobs.

Ms. Porter noted both resolutions that will be presented later in the week at the Police Awards Banquet.

Moved by Mr. Williams; seconded by Mr. Elrich.

Ms. Porter said she assumes there will be an opportunity for Council comments at the event.

Chief Creamer announced that the event is this Thursday at 7:00 p.m. upstairs.

Ms. Austin-Lane said Sergeant Jacobs was an officer assigned to Ward 1. Residents appreciated his service to the community, and we will miss him. He had a warm spirit. She extended condolences to his family.

Resolution #2004-26 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Mizeur, Seamens, Williams; ABSENT: Elrich).

RESOLUTION #2004-26
(Attached)

18. Resolution re: Officer of the Year - Private Pedersen.

Moved by Ms. Austin-Lane; seconded by Mr. Barry.

Ms. Austin-Lane recalled that Officer Pedersen became an officer during her first term on the Council. His parents lived in Ward 1 until they recently moved. He has a long history in the Old Town area and is known by many in the area. She is glad that he has chosen to use his skills here in the City and is being recognized so early in his career.

Resolution #2004-27 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

RESOLUTION #2004-27
(Attached)

Ms. Austin-Lane asked that Chief Creamer pass-on to both families and Officer Pedersen her apology for not being in attendance on Thursday evening and to relate her sentiments.

19. Consent Agenda.

Moved by Mr. Williams; seconded by Mr. Barry.

Agenda items adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

- COLTA Reappointment:

Resolution #2004-28 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

RESOLUTION #2004-28
(Attached)

- Facade Advisory Board Reappointment:

Resolution #2004-29 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

RESOLUTION #2004-29
(Attached)

- Free Burma Committee Reappointment:

Resolution #2004-30 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

RESOLUTION #2004-30
(Attached)

- Nuclear Free Committee Reappointment:

Resolution #2004-31 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur; Seamens, Williams).

**RESOLUTION #2004-31
(Attached)**

BREAK - The Council recessed for a scheduled break and later reconvened in Worksession.

WORKSESSION

20. Code Enforcement

Montgomery County Representative Rob Deijter gave a description of the situation related to the overload of electrical systems in older buildings and the fire hazard that it creates. He commented on the Housing and Building Standards Code with respect to the enforcement of electrical code requirements affecting window air conditioning units. Most property owners are complying by upgrading systems in their buildings to prevent the blowing of fuses and to accommodate the power requirements for air conditioning units. He described reported fires and property damage associated with insufficient electrical systems. In the county between June 1997 and August 2002, there were multiple fires reported. He said they would much rather air on the side of being safe rather than being irresponsible when it comes to this. It not only affects the individual unit, but rather all of the units and residents in a building.

Mr. Elrich said this is creating serious misery in the community. When the heat is up, people die. You are going to kill people in apartments without air conditioning. He said he has done some research about local reported fires. The timing of this enforcement is terrible. People are leaving apartments. Why are they choosing to do this now?

Mr. Deijter said they have been doing this since he has been involved in the enforcement department (two decades).

Mr. Seamens said he was approached by someone outside of the City who reported that enforcement is being imposed.

Mr. Deijter said that most owners are complying.

Montgomery County Representative (Female) said she had been doing inspections since November. As we would discover buildings with air conditioners, owners were notified to either remove units or bring building up to compliance.

Ms. Austin-Lane asked if there was any way to ease the transition.

Mr. Deijter noted that the City sent out a letter to multi-family property owners offering assistance with low cost loans to bring buildings into compliance.

Mr. Seamens said it is more than a City problem. The issue is broader than fire safety. There are health concerns.

Ms. Porter said this is not a particularly productive way to address the issue. She understands that people are suffering in hot apartments. Is there a way to create an even better incentive for owners to upgrade systems?

Mr. Elrich said the County does not have any requirement regarding heat.

Ms. Austin-Lane asked how the capital improvements increase program works in this scenario.

Mr. Deijter remarked that it is a perfect match for the program.

Mr. Elrich asked what landlords are reporting as the cost for the upgrades.

Ms. Daines said they have not been calculated. She has been contacted by some property owners who were looking for information about the process. She noted that property owner Mr. Wasser has inquired about the process, although his situation is a bit different (already about halfway along with the improvements).

Mr. Elrich asked what are the options for tenants.

Ms. Daines responded. A tenant can go through the COLTA process which may require the owner to make the upgrade. She has been advising residents to file a claim so that it can be reviewed by COLTA, and a precedent might be set. It depends on how the lease is worded.

Mr. Williams said, if this is addressed as a Code violation, then the owner can address it as a capital rent increase petition. However, if a property owner made the improvement prior to the county starting enforcement in the City, would those owners be able to file for the rent increase?

Ms. Daines said it depends on how it was packaged.

Mr. Williams concluded then, that someone who was proactive might not be able to get the rent increase.

Mr. Elrich said it is not a matter of putting in central air.

Ms. Porter remarked that upgrading the wiring systems is legitimate.

Ms. Austin-Lane agreed.

Ms. Porter said it is very uncomfortable to put tenants in a position of being exposed to a known fire hazard. She would like to find a way of the City being more proactive in requiring a landlord to upgrade systems.

Ms. Austin-Lane commented that we are now putting the tenant in a position of filing a COLTA complaint. Some tenants will not take this risk in fear of getting kicked out of their unit.

Mr. Elrich remarked that he is not comfortable with allowing owners to lean on the capital rents increase petition as a way to make upgrades that are required to meet Code, and pass the cost on to the residents.

Ms. Austin-Lane suggested that the City find a blanket way to approach a solution.

Mr. Deijter said the City could specifically exempt owners from this specific section of the County Code, if desired.

Ms. Porter said it knowingly would be putting residents at risk.

Mr. Finn acknowledged, also, there are some big liability issues.

Ms. Porter asked what can we do to force upgrades. She is unwilling to ignore the fire hazard. She would rather eliminate both the fire hazard and the health concerns.

Mr. Elrich said people will not have air conditioning by the end of the Summer, given the time that is required to get the work done.

Mr. Deijter remarked that if we have a signed contract from owners that upgrades are being done (stating that it is out of their hands to get the work done), then they may be granted extensions. We have gotten the angry phone calls from residents across the County. We walk the thin line--walk that line all the time with respect to code enforcement issues.

Ms. Austin-Lane asked whether there are other ways with the City's Housing Code that could more pro-actively get involved in these types of situations.

Ms. Daines said she would like to say "yes", but all renters have different types of lease terms. She does not think that there is a quick fix that will solve the problem entirely. She thinks that there are some things that we have done with Code Enforcement that have been helpful. A signed contract is one way of getting an extension (kind of a temporary patch). We have been able to work with some landlords in getting them to reconsider their initial reaction (e.g., just ripping out air conditioners). It does not make sense from an economic standpoint to make units unmarketable (e.g., removing the AC units). Some owners are being coached in how to handle the concern.

Mr. Seamens said people he has talked to tend to be more the residents than the landlords. Many

do not have a lot of alternatives and don't have papers to be living in the County, so they do not have the ability to go out and be more aggressive to reach the government about alternatives. We have to consider that this is also a "people" issue. It is extremely difficult for those experiencing this at the hottest part of the year. Maybe, enforcement could be delayed until the end of Summer until a time that it is cooler. It would give more time for landlords/tenants to cope with the situation.

Mr. Williams said we don't want to just say "hold off". We need to deal with the fire safety issue. He could see where some of the contracted electrical work could extend to the end of summer or into early fall. We might also have the tenant sign something acknowledging the fire safety issue within the unit.

Mr. Elrich commented that he would basically preclude any other electrical flow from an outlet supporting an air unit.

Mr. Deijter acknowledged that they have struggled with this at the department level.

Mr. Williams remarked that the idea is to give the tenant an opportunity to understand the problem and feel less like a victim.

Ms. Porter suggested that information packets be sent to landlords offering solutions other than pulling out air units.

Ms. Daines noted that they have been sending a letter to that effect to all of the landlords on the list. It identifies a funding source for the improvements and for those on the rent stabilization list, and it identifies who to contact.

Ms. Porter asked whether we follow-up with direct contact to the landlords.

Ms. Daines said that we are hearing from some of them.

Ms. Porter suggested, maybe, we should contact those who do not respond.

Mr. Seamens recommended that landlords who have not yet had inspections be informed of this requirement and the implications.

Ms. Daines stated it is being covered in context of the Landlord Certification Program.

Mr. Elrich asked if we can get a list of the number of units that have been affected.

Mr. Deijter said it is difficult to get exact numbers. It is not an issue tracked in the data base. In the system, a "correction" could be the removal of a unit or an upgrade to the system.

Ms. Daines said the City could provide information on those that go through the capital rents

increase process or COLTA complaints.

Mr. Elrich suggested that enforcement of this part of the Code be suspended until April 2005.

Ms. Daines commented that if the primary concern is to maintain the access to air conditioning, it might be more appropriate to include a requirement in the Landlord-Tenant Code that if AC had been provided by a certain date, the landlord would have to make the necessary upgrade.

Ms. Austin-Lane asked if we could add a provision in the Property Maintenance Code.

Ms. Daines advised that it would be better to add the language in the Landlord-Tenant Code. We get the inspection reports. It will identify whether there is an electrical concern because of overloading of outlets. We could go through those reports and identify potential concerns. We could then monitor whether electrical service is later provided. If you blanket require landlords to provide AC, you have to consider that not all buildings have central air.

Mr. Williams said you could require that all buildings/units either have central AC or provide a dedicated electrical outlet that would support an AC unit.

Mr. Seamens asked what is the status on the Carroll Avenue apartments (outside of City). They have taken out all of their units and threatened residents with eviction unless they upgrade their electrical capacity.

Mr. Deijter explained his understanding that the process is moving forward. The owner has decreased rents and provided tenants with fans.

Ms. Porter said it is her recommendation that there be either central AC or a dedicated single circuit for an AC unit (as stated by Mr. Williams).

Mr. Deijter stated that they do not go looking for the single circuit unless there is an AC unit in place.

Ms. Porter said this is a good argument for grand-fathering. She asked that staff come back to Council with some additional thoughts about how this might work. Can enforcement be postponed until the end of Summer?

Mr. Deijter that it is not coming from the county's initiative. The City could take action to exempt the provision as applies to Takoma Park. Otherwise, the county cannot exclude enforcement in the City.

Mr. Seamens asked if the county give a longer period of time for resolution of these situations in the City.

Mr. Deijter and Ms. Daines both replied, that it does not resolve the problem.

Ms. Porter asked if the county would abide by something in writing by the City, to interrupt enforcement.

Mr. Deijter replied in the affirmative.

Mr. Finn summarized that we are talking about amending the MOU.

Mr. Seamens confirmed that the county is not inspecting single family homes where the same danger might exist. So, we are not putting tenants at any greater risk.

Ms. Austin-Lane said tenants live in a more dense community.

Ms. Porter observed that we are trying to preserve safety and get cooling for them as well.

Mr. Williams stated rather than amending the MOU, he wants to talk about the way that the City will grandfather systems that have been in place and the way the City will be requiring upgrades.

Mr. Seamens remarked that he does not want to create dangerous apartments. There are health conditions that will be complicated by a hot apartment.

Ms. Porter added that we should require that cooling in a safe way.

Mr. Elrich said we should not treat this as an alarming fire hazard.

Ms. Porter commented that she wants to come up with a proactive solution that the City can implement. She wants property owners to continue to provide AC in some format. Also, she wants some time to be able to discuss this and implement it on a policy level.

Mr. Finn said, given our experience with the County, he would suggest that there is no way that we will have an amendment to the MOU before the end of August.

Mr. Deijter noted that we will go out to a 90-day extension as long as we get a signed contract. That should put owners in a situation where AC units can continue to be used and there is an end game.

Ms. Porter said this works for the landlords who are willing to comply.

Mr. Deijter commented that it goes back to the point where we either write citations or the market conditions would prevail.

Mr. Williams stated we should proceed in a cooperative fashion versus pointing fingers at one party or the other (County or City).

Mr. Elrich asked how long it takes to revise an MOU.

Ms. Daines said we can explore that question. It is written through the County Executive's office.

Mr. Finn advised that we would have to go through the County Attorney's office. He thinks they will look closely at the provision which would be excluded from enforcement.

Ms. Porter suggests we find another alternative.

Ms. Daines said she will look at the options.

Mr. Seamens asked why the Carroll Avenue apartments have become a focus.

Mr. Deijter replied that the AC units were probably removed in the past and they slowly trickled back into the apartment units without the necessary upgrades.

Mr. Elrich asked about the costs associated with upgrades.

Mr. Deijter said that it varies significantly.

Ms. Porter said she will schedule a follow-up discussion as soon as we have time and have something to come back with for discussion.

Mr. Seamens reminded that Ms. Daines was going to give the Council a list.

Ms. Mizeur asked for a list of incentives that are already in place.

Ms. Daines replied that we will look at incentives and disincentives.

21. Rental Housing Update.

Ms. Daines referred to a summary of rental housing activity included in the package item. She noted that a majority of the multi-family properties have been inspected. Inspections will soon start on the single family dwellings covered under the inspection program.

Ms. Austin-Lane asked, on multi-family annuals, how they are sorted in the list.

Linda Bird (Montgomery County Representative) said it is by "date-filed."

Ms. Austin-Lane questioned the importance of this sort field.

Mr. Deijter explained that it is from the date that they started doing the inspections (chronological).

Ms. Daines added that inspections were done by geographical areas.

Ms. Austin-Lane asked if there is a way to have the report sorted differently the next time.

Ms. Daines replied that we have different data bases that are incompatible (City and County).

Ms. Bird asked how the Council would like to see the information sorted.

Ms. Austin-Lane suggested that the list be sorted by address (i.e., alpha by street name).

Ms. Porter said she was told that the County is no longer putting people on biennial inspections. Everyone is going to the annual inspection.

Ms. Daines said that this is something that the City is enforcing. She referred to the City Code provision. There have been a number of properties that no longer meet the requirements to remain on the biennial program. A number of people are not happy.

Ms. Porter said presumably, it is because the County is more strict in their inspections. How will it be before they can go back on the biennial program?

Ms. Ciccone said it takes two years of “approved” inspections.

Ms. Austin-Lane asked for clarification on the 6 month inspection program (related to problem properties).

Mr. Seamens asked whether there is a published list of scheduled inspections.

Ms. Bird explained that inspections are not scheduled months ahead. We pull up a list each month.

Ms. Porter said that when we did this in the City, we would publish in the newsletter the properties that were going to be inspected. Some found this useful.

Ms. Bird said they could provide that information to City staff.

Ms. Daines said we have been encouraging landlords to monitor condition of properties pursuant to the law and to check buildings for things that meet the code requirements.

Mr. Elrich remarked that outside of this fiasco, he is very pleased with the improved inspection service in the City.

Mr. Deijter said most people really are upgrading their electrical systems.

Ms. Austin-Lane added thanks for the work of the County code enforcement. It is a major improvement and she appreciates their cooperation with City staff.

Ms. Porter thanked the county representatives for coming out at this late hour to engage us in this discussion and for the helpful comments.

22. ezStorage Proposal.

Mr. Inerfeld said this business is the second commercial development to come to the City since the MOU regarding site plan review. He introduced Al Blumeberg and Craig Pittencher.

Craig Pittencher noted their properties. He remarked about the projects under construction with brief comments on the design aspects. We own and manage the ezStorage chain. We have an office on site and a caretaker's residence on site. Other than major holidays, the office is open seven days a week. If you are a tenant, you have extended hours for access to units. There are surveillance cameras that record activities on site. Data is tied into the computer system.

Ms. Austin-Lane asked what type of clients normally occupy the local facilities.

Craig Pittencher said that about 80% are residential clients. Most are within the immediate vicinity. This is an off-site storage facility. So, these are things that people do not need on a regular basis. They do not store vehicles. They do not have handling equipment. Everything is at-grade. They have small carts for people to use to move things into the building. Units are accessed from inside the building. Only one side has a few units that are accessible from the outside.

Mr. Inerfeld said it may come before the Planning Board on July 29, in response to a question about timeliness.

Al Blumeberg walked through a description of the site plan rendering. This facility will replace MarJacks. He responded to specific Council questions about the design and landscaping around the building.

Craig Pittencher narrated a PowerPoint presentation of the proposed elevation and site plan/design. From Holton Lane it will be three stories high and two stories below grade. There will be a retail office component along Holton Lane. The elevation along University Boulevard reveals the five levels of the building. He commented on the business office, inside of facility (clean and well lit), and monitoring system for the site. The design was developed specifically for this site. The whole building would be masonry (combination of light beige and red brick). He noted the pre-cast framing around the windows and entrances.

Mr. Williams asked about the floor-to-floor height.

Craig Pittencher said that at grade level it will be 12 feet. Other levels will be 10 feet.

Ms. Porter asked if self storage will be on all five floors.

Craig Pittencher responded in the affirmative.

Ms. Porter asked about the timeline.

Mr. Inerfeld said they hope to go to the Planning Board on July 29. The Council will have the opportunity to submit a position. They have added a number of elements based on staff recommendations. They have done pretty much everything that we have requested. We are happy with what they are proposing. The staff recommendation is that the Council supports the application. In terms of community outreach, it has come before the CDA Board and at the annual CDA meeting. Councilmember Mr. Barry has been discussing the proposal with residents. Since the building is tucked so far away from the residential community, it has not really been taken up as an item at community association meetings. It is a very attractive design for the area. They will be planting 32 trees on the site.

Mr. Seamens asked to view the building from the University Avenue perspective. He said that this is the only weakness he sees in this proposal.

Mr. Inerfeld said he thinks this will be screened by the Tiffin restaurant. It will be buffered to a great extent.

Ms. Porter said she will put it back on the agenda with an invite to the business association and the neighborhoods for comment.

ADJOURNMENT

The Council adjourned for the evening at 11:57 p.m.